

# **CITY COUNCIL AGENDA REPORT**

**SUBJECT:** Time clocks

**AGENDA DATE:** October 19, 2010

**PREPARED BY:** Rosalind Guerrero, Human Resources/Risk Management Director

**APPROVED FOR AGENDA BY:** Victor Carrillo, City Manager

**RECOMMENDATION:** Informational

**FISCAL IMPACT:** To be determined

**BACKGROUND INFORMATION: (Prior action/information)**

At the request of Council Member Hodge, staff has researched the use of time clocks by city departments.

The following city departments have operable time clocks:

City Hall  
Fire Department  
Water Treatment Plant  
Waste Water Treatment Plan  
Public Services

The following city locations either do not have a time clock or the time clock is inoperable:

Police Department – replacement has been received  
Library – not working  
Recreation – no time clock  
Carnegie Library – no time clock  
Cultural Arts – no time clock  
Library extension at Willie Moreno – no time clock

A cost would need to be identified for the purchase of time clocks that are compatible with the type of time cards the city uses for those city facilities that currently do not have a working time clock or no time clock.

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In consideration of implementing a mandatory policy for use of the time clocks, there are three legal issues that have been identified by the city attorney's office.

1) Fair Labor Standards Act (FLSA)-

- Record Retention. City must keep detailed records of time and payments, including the punch cards. This is currently done by the Finance Department. Although not all employees use a time clock, time cards records hours worked for payroll calculations.

- Grace Periods/Tardiness- the City will need to establish the increments for payment, a consistent standard for rounding time worked. Rounding time worked can be calculated in 10<sup>th</sup>s or quarters. A rounding time policy about when employees are permitted to clock in/out at the beginning and end of their shifts would specify how the employee will calculate working time.

The time clock will record the exact starting and ending times, however, in computing time worked, the FLSA allows an employer to "round off" an employee's starting and stopping times to the nearest 5 minutes, or nearest one-tenth or one-quarter of an hour, provided that this practice averages out over a period of time, and it must not result in a failure over time to compensate the employee for all the time actually worked.

Also, typically employers will prohibit clocking in no sooner than 5 minutes before a shift and no later than 5 minutes after a shift to avoid having employees work outside their normal schedule and being paid the additional time. The policy should include when an employee will be considered tardy. One minute after the start of the schedule shift is okay, but the City could allow up to two or three minutes before considering the employee tardy. A significant change when an employee will be considered tardy, could trigger a potential meet and confer.

- Meal Periods/Breaks- Currently the department head determines if an employee is required to clock in and out for meal periods. A written policy should require all hourly employees to clock in and out for meal periods so as to have the most accurate record of the actual hours worked. The FLSA does not allow just relying on a work schedule that was posted in advance. The City could decide whether or not to require employees to clock in and out during their short breaks during their shifts.

2) Discipline- The City should include language in the policy that states that employees are prohibited from tampering with the timekeeping hardware or software, punching in or out for another employee, interfering with other employees' use of the time clock, and unauthorized viewing of another employee's time. Any of these violations could result in discipline, up to and including termination.

3) Meet and Confer & Potential change in working conditions- If employees are going to have to travel to and from different locations to clock in/out, this could be a mandatory subject of bargaining.

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**DISCUSSION:**

All city employees' document hours worked on time cards. Those departments with working time clocks require employees to punch in and out at the beginning of the day and at the end of the day. The department head enforces whether an employee clocks in or out for breaks (when leaving the work place) or for lunch breaks. Department heads and supervisors are ultimately responsible to review the time cards for accuracy.

A written policy would provide a standard to be followed by all departments and employees. Human Resources has begun drafting a policy for the use of time clocks, however, items such as rounding time, grace periods, tardiness, discipline, and potential meet and confer items require further research.